



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/887,847	07/03/97	BAYCHAR	BAY-210

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IM22/0813

EXAMINER
SINGH, A

ART UNIT	PAPER NUMBER
1771	6

DATE MAILED: 08/13/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**08/887,847**

Applicant(s)  
**Baychar**

Examiner  
**Ms. Arti R. Singh**

Group Art Unit  
**1771**



☒ Responsive to communication(s) filed on Jul 3, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1 is/are rejected.

☒ Claim(s) 2-13 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 and 3

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Priority***

1. It is noted that this application appears to claim subject matter disclosed in prior copending Application No. 08/813438, now abandoned, filed on 03/10/97, and 08/747340, now US Patent 5,738,937 filed on 11/12/96. A reference to the prior application must be inserted as the first sentence of the specification of this application if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). Appropriate correction is required.

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 08/813,438 filed on 03/10/97.

### ***Oath/Declaration***

3. It appears that the full given name of applicant, Carrbassett Baychar is not present in the signature or elsewhere in the papers. This application will not be passed to issue until the omitted name has been supplied or unless a statement has been supplied over the applicant's signature setting forth that the name as signed is the actual full name of applicant. See MPEP § 605.04.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ogden (US 5,727,336).

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Ogden teaches an insole made of a plurality of layers. In figure 8 and columns 12-13, Ogden shows that his insole may be made of a top layer which has apertures, to which is attached a nonwoven layer, to this is attached a cushiony urethane(foam), to which is affixed to an adhesive net material (a scrim), which the Examiner equates to be the same layers that Applicant claims. Ogden also suggests the moisture wicking and moisture absorbing capabilities of the laminate as a whole.

***Allowable Subject Matter***

6. Claims 2-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims are indicated as allowable because there was no prior art found that suggests or teaches the moisture transfer system as claimed.

Any inquiry regarding this communication or earlier communications from the Examiner should be directed to Arti Singh, whose telephone number is (703) 305-0291. The Examiner can normally be reached Monday through Friday from 8 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Marion McCamish, can be reached at (703) 308-3861. A Facsimile center has been established in Group 1700 on the 8th floor of Crystal Plaza 3. The hours of operation are Monday through Friday 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 305-5408. This location should be used in all instances when faxing any correspondence to Art Unit 1771. Use of the Group 1700 center will facilitate rapid delivery of materials to Examiners in Art Unit 1771.

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Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.



Ms. Arti Singh  
Patent Examiner  
Art Unit 1771  
August 10, 1999



TERREL MORRIS  
PRIMARY EXAMINER  
GROUP 1300  
1700